

IN THE CIRCUIT COURT
OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CASE NO.: 13-CV00114

WYNN'S EXTENDED CARE INC.,

Plaintiff,

Vs.

PENNY L. BRADLEY.

Defendant.

DEPOSITION
OF
FRANK ARMENTEROS

TAKEN AT:

19 West Flagler Street Suite 902
Miami, Florida 33130

September 15th, 2014
10:00 a.m. to 4:25 p.m.

EXHIBIT 12

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1 BY MR. DOMONOSKE::

2 Q Also, just so you know if I ask a question
3 and your lawyer wants to object then if you wait
4 until I'm finished it allows your lawyer an
5 opportunity to make that objection. When you said
6 that she got a physical list, would the physical
7 list explain to her why the system had reject it?

8 A No.

9 Q Other than missing information, what were
10 the reasons that the system would not accept an
11 application?

12 MS. SADLER: Objection relevance.

13 MR. ARMENTEROS: Mileage, if it is over
14 the mileage that we allow. In every program
15 whether is CAC or whatever there is a time
16 limit and a mileage limit. A vehicle that is
17 over that mileage or the time, lets say 15
18 years old 20 years old, vehicle is rejected.
19 The same with mileage, if it is 200.000 miles
20 it would be rejected.

21 BY MR. DOMONOSKE::

22 Q Other than mileage, what reasons would the
23 system rejected other than missing information?

24 MS. SADLER: Same objection.

25 MR. ARMENTEROS: Hybrid.

1 Q Does Melissa enter the Penny Bradley's
2 name and address?

3 A Yes, Sir.

4 Q Does Melissa enter the CAC loan number?

5 A Yes, Sir.

6 Q And does she get that information from the
7 application?

8 A Yes.

9 Q And how does she know the dealer's code
10 number?

11 A Because it comes from our tables. We have
12 a file that can search who is Armstrong Auto Sales
13 by the name or the zip code and we identify him. In
14 addition to that on the CAC file, CAC provides us
15 with a lot number. They don't call it dealer code;
16 they call it lot number, l-o-t.

17 Q Does Melissa have to put the lot number in
18 when she does the contract file data?

19 A No.

20 Q Other than the lot number, is there any
21 data that CAC sends you in that data file that
22 Melissa does not have to put in?

23 A I don't understand the question.

24 Q When CAC sends the file it includes a lot
25 number and for the Bradley transaction it would have

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1 included a lot number for Armstrong Auto.

2 A Yes, Sir.

3 Q After your system has rejected it, Melissa
4 has to manually put information into your system
5 because the system has not accepted the information
6 from CAC; she does not put in the lot number.

7 A She used the code, the dealer code.

8 Q She uses the dealer code.

9 A Which is our internal (unintelligible).

10 Q Does that go into the same place on the
11 spreadsheet that the lot number goes?

12 A What spreadsheet you are reefing?

13 Q Well, the database.

14 A Yes.

15 Q So, instead of putting the lot number into
16 the database, she puts the dealer code in the
17 database?

18 A In our system, on our system there is no
19 lot number.

20 Q Right. Does your system automatically
21 translate the lot number to the dealer code?

22 MS. SADLER: Objection relevance, beyond
23 the scope of the deposition notice.

24 MR. ARMENTEROS: Yes.

25 BY MR. DOMONOSKE: :

1 Q And in that file when it contains the
2 Penny Bradley transaction, does it contain a
3 reference to the Penny Bradley transaction?

4 MS. SADLER: Object to form.

5 MR. ARMENTEROS: In reference in which
6 way?

7 BY MR. DOMONOSKE::

8 Q Any indication that says that there is
9 money in here related to the Penny Bradley
10 transaction?

11 A Yes, it has the account number it has the
12 last name.

13 Q Does any of Exhibit Nine through Twelve
14 and Exhibit Thirteen look like a printout of the
15 contract file database that contains the information
16 that Melissa inputted?

17 MS. SADLER: Objection relevance.

18 MR. ARMENTEROS: Like I said it looks
19 similar.

20 BY MR. DOMONOSKE::

21 Q And I believe you also told me that this
22 was not information inputted by Melissa.

23 A The electronic file that we receive -- it
24 looks similar to the electronic file that we
25 receive.

1 Q I want to talk about the information
2 inputted by Melissa, and my question is whether the
3 information inputted by Melissa, the file where that
4 information is is reflected in these documents?

5 A No.

6 Q On Exhibit Thirteen one of the columns
7 from the left side it says, "Last six of VIN" do you
8 know why the last six of VIN are shown there?

9 A No.

10 Q Six columns from the left it says "Mileage
11 at cancelation" do you know who determined that that
12 that was the mileage at cancelation?

13 MS. SADLER: I'm just going to note for
14 the record that this document was actually
15 produced again to counsel for some issue that
16 they had and this version that counsel is using
17 does not include all the columns, which were
18 actually produced in Wynn's 00049. So, this
19 document is not a complete document but you can
20 carry on.

21 MR. ARMENTEROS: I don't want to guess.

22 BY MR. DOMONOSKE::

23 Q Do you know why there's two columns in a
24 row called mileage at cancelation?

25 A No.

1 Q Do you know what the column "Cancel fee
2 used" means?

3 A Yes.

4 Q What's canceled fee used mean?

5 A Cancellation fee if it is applicable when a
6 contract is cancelled.

7 Q Why is there no cancellation fee here?

8 A This is not a contract this is an
9 application that was voided.

10 Q Do you see the column that says "Refund
11 factor"?

12 A Yes.

13 Q What does refund factor refer to?

14 A When it's canceled there is a refund
15 factor that is calculated on contracts that have
16 been cancelled.

17 Q What does "Refund factor D" mean?

18 A A percentage of the refund.

19 MS. SADLER: I'm going to object.

20 Misstatement of the document, I don't think
21 that's a D.

22 MR. DOMONOSKE: What do you think it is?

23 MS. SADLER: I thought it was a zero.

24 MR. ARMENTEROS: That's a zero.

25 MS. SADLER: Again, on the document we

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1 produced to replace this document--

2 MR. ARMENTEROS: A letter could not be
3 used in there, that's why I say it's a zero.

4 BY MR. DOMONOSKE::

5 Q It's a zero. Okay, thank you. Do you see
6 where it says "Rebate method used"?

7 A Yes, Sir.

8 Q What does the term rebate refer to?

9 A Whether is on mileage or term months, when
10 you cancel a contract.

11 Q Look at Exhibit Fourteen ad Fifteen,
12 please. Looking at Exhibit Fourteen where it says
13 "Posted date 10/29", what happened on 10/29?

14 A I have no idea this is the first time I
15 see this.

16 Q Look on item fifteen do you see where it
17 says "Posted date 9/11"?

18 A Yes.

19 Q What happened on 9/11?

20 A 9/11 of which year?

21 Q If you look up at the top I believe 2012,
22 because it says this is September 1st 2012 through
23 September 30th 2012.

24 A Again the same answer. I don't know what
25 this document is for.

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1 A Don't know the answer. He has options.

2 Q All right. 2:27 p.m. off the record.

3 2:42 p.m. back on the record.

4 BY MR. DOMONOSKE::

5 Q Turning to item fifteen of Exhibit One.

6 What steps were taken by your company after it
7 learned of the Bradley transaction to ensure what
8 occurred in that transaction does not occur again?

9 MS. SADLER: Objection relevance.

10 MR. ARMENTEROS: No steps were taken.

11 Everything that was supposed to occur occurred.

12 BY MR. DOMONOSKE::

13 Q Turn into seventeen, what steps did the
14 company take to insure that dealers who sold a
15 service contract on an ineligible vehicle provide
16 the customer with the opportunity to cancel the
17 entire transaction?

18 MS. SADLER: Objection relevance.

19 BY MR. DOMONOSKE::

20 Q And by "Entire transaction" I mean the
21 sale of the car.

22 MS. SADLER: Objection relevance.

23 MR. ARMENTEROS: That's not our
24 responsibility. That's CAC responsibility if
25 they choose to do so.

1 BY MR. DOMONOSKE::

2 Q Why is it not your responsibility?

3 MS. SADLER: Objection relevance, calls
4 for speculation.

5 MR. ARMENTEROS: The dealer is an agent in
6 the way of selling the product on behalf of CAC
7 and Wynn's Extended Acre. In other words, they
8 choose to do business with CAC and they
9 purchase the warranty -- service contract, I'm
10 sorry, that was available when they sold the --
11 when they did the finance through CAC. What we
12 received was the transaction and we processed
13 the transaction according to our
14 responsibility.

15 BY MR. DOMONOSKE::

16 Q Do you expect your service contract to
17 give the customer peace of mind about the vehicle
18 being covered?

19 MS. SADLER: Objection calls for
20 speculation.

21 MR. ARMENTEROS: Not answering that.

22 BY MR. DOMONOSKE::

23 Q I'm sorry you don't know the answer?

24 A I know the answer I'm not answering.

25 Q What is the answer?

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1 A I think it's 655.

2 Yes, that's what it looks like on the
3 document.

4 Q And, do you see other amounts of number on
5 page 46 of Wynn's production?

6 A Yes.

7 Q What are those numbers?

8 A The retail price, the -- what we call the
9 Dealer commission -- in their case is additional
10 advance and the CAC administration fee.

11 Q And what's the CAC administration fee?

12 A It's their commission.

13 Q Okay. Does Wynn's receive any portion of
14 the dealer amount?

15 A No, Ma'am.

16 Q Does Wynn's receive any portion of the CAC
17 amount?

18 A Nope.

19 Q What happens with the reserve amount?

20 A The reserve amount is taken and put in a
21 trust account for the program on behalf of
22 Nationwide after the premium tax is taken.

23 Q Does Wynn's ever receive any portion of
24 the reserve amount?

25 A No.

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1 Q Meaning for the company's years?

2 A No, the reserve amount is in either
3 premium tax to the insurance company or for paying
4 claims.

5 Q And if there's any money left in the
6 reserve what happens to that money?

7 A It's distributed to CAC.

8 Q Is any portion of that ever distributed to
9 Wynn's?

10 A No.

11 Q Other than the \$80 as the administrative
12 fee, does Wynn's receive any profit under this
13 program agreement?

14 A On the contract? No.

15 Q Under this program, is there use of the
16 term wholesale cost?

17 A No.

18 Q Is that a foreign term to this program?

19 A Yes.

20 Q You mentioned earlier that Wynn's
21 processes claims, what do you mean by that?

22 A Wynn's, as part of the service on this
23 program provides claims administration on behalf of
24 insurance company in this case Nationwide. What we
25 do, we take claims on vehicles that for whatever

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1 read section H, and you were asked about moneys
2 being tendered or returned, what specific moneys do
3 those relate to?

4 A If the dealer had collected up front any
5 down payment from the account holder he would have
6 been supposed to return that money. If the dealer
7 had received from CAC, a commission from the sale of
8 that contract or how they call it "additional
9 Advance revenue", they would have to have returned
10 that money.

11 Q That only related to the service contract.

12 A That's correct.

13 Q Does Wynn's have any control over the
14 purchase of the car that occurred?

15 A No.

16 Q Other than what is outlined in the terms
17 of this dealer agreement Exhibit Twenty, does Wynn's
18 have any control over the dealership?

19 A No.

20 Q Does Armstrong Auto sell any service
21 contracts directly for Wynn's?

22 A No.

23 Q Under this contract, does Armstrong Auto
24 have the authority to sell any contracts directly
25 for Wynn's?

1 A No.

2 Q Does Wynn's have to review applications
3 for service contracts before they become complete?

4 A Yes.

5 Q You were asked several times for
6 instructions that were provided to Armstrong Auto,
7 is it Wynn's expectation that the dealer will refer
8 to the rate sheet mark as Exhibit Seventeen?

9 A At the time of that sale, yes.

10 Q In this rate sheet what does that tell the
11 dealer?

12 A It tells the dealer the retail price that
13 has to be added to the service contract in the
14 retail price column or box, any additional
15 surcharges that are required to be paid and what
16 vehicles are ineligible.

17 Q Okay. At the time of this transaction in
18 2012, did Wynn's used -- you used the term agent
19 referring to Armstrong auto, at the time of this
20 transaction in 2012, did Wynn's use Armstrong Auto
21 as an agent?

22 A No.

23 Q Does Wynn's have any authority regarding
24 any employees at Armstrong Auto?

25 A No.

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1 other than what you outlined when we were looking at
2 Exhibit Twenty Four?

3 A With the exception of the premium tax that
4 is taken out of the reserve that you see here under
5 that column, nothing else.

6 Q And the premium tax where does that go?

7 A It goes to pay State premium tax on behalf
8 of the program; it's done by sending the money to
9 Nationwide.

10 Q So, it's there any other profit to be
11 shared under this program?

12 A No, Ma'am.

13 Q Who I Mathew Brooks?

14 A Mathew Brooks is an in-house counsel.

15 Q Do you rely on information Mr. Brooks
16 gives you?

17 A There are three Mr. Brooks.

18 Q I apologize, Mathew Brooks.

19 A Okay. Yes.

20 Q Do you believe him to be truthful and
21 accurate?

22 A Yes, Ma'am.

23 Q Have you ever doubted any information that
24 he's provided you?

25 A No, Ma'am.

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